

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

ASR INTERNATIONAL CORPORATION¹

Employer

and

Case 7-RC-22901

**DISTRICT LODGE 60, INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS, AFL-CIO²**

Petitioner

APPEARANCES:

Michael Krauthamer, Attorney, of Melville, New York, for the Employer David Porter, Business Representative, of Cincinnati, Ohio, for the Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.

¹ The name of the Employer appears as amended at hearing.

² The name of the Petitioner appears as amended at hearing.

³ The Employer and Petitioner filed briefs, which were carefully considered.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.⁴

Overview

The Petitioner seeks to represent a unit of approximately five full-time and regular part-time Quality Clerk I and Quality Clerk II inspectors employed by the Employer to service the United States Postal Service (USPS) operations in Trenton, Michigan⁵, but excluding all office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act, and all other employees.⁶ The Employer asserts that the only appropriate unit should exclude the Quality Clerk II job classification as supervisory, and encompass all 22 Employer locations in a nationwide unit.⁷

I find the petitioned-for unit to be appropriate. There is sufficient local autonomy of the Employer's Trenton operations, and insufficient employee integration and substantial geographic separation between the clerks at its 22 locations, to support the appropriateness of the petitioned-for unit. I further find that the Quality Clerk II employee at the Trenton location does not possess any supervisory indicia enumerated in Section 2(11) of the Act, and therefore is not a statutory supervisor and is eligible to vote.

The Employer's Operations

The Employer has been in business for 15 years and is incorporated in the state of New York, with its headquarters in the city of Hauppauge. The Employer provides quality inspection, auditing, information technology (IT), and engineering services to large corporations, such as Boeing and Rolls Royce, and the USPS. It has operations and customers in the United States, Europe, Canada, and China. Under its service contract with the USPS (the only operation involved herein) the Employer inspects the various types of containers utilized by the USPS to carry mail, such as bags, sleeves, rolling stock, and trays, for repair, at 22 sites

⁴The United Association of Workers of America, affiliated with NOITU, (UAWA) filed a representation petition, Case 29-RC-11092, seeking to organize employees at the Employer's facility in Long Island, New York. A hearing in that matter was held on July 22, 2005, and a decision is pending. The record indicates that UAWA was contacted prior to the hearing in the instant matter (Trenton, Michigan operations) and indicated it had no interest in intervening at this time.

⁵The Employer's location has been variously identified in the record as Detroit or Brownstown or Trenton, when in fact the operation is physically located in a facility on Brownstown Center Drive, in Trenton, Michigan, as set forth in the petition.

⁶The parties stipulated that the unit petitioned for has no history of collective bargaining.

⁷The unit would encompass facilities located in the states of Colorado, California, Florida, Georgia, Illinois, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, and Washington.

throughout the country. The containers come from across the country directly from USPS facilities or from the Employer's other operation sites. The Employer works in conjunction with a servicing contractor at each site whose responsibility is to repair the containers that the Employer inspects. If the Employer approves the repair, the servicing contractor is paid. The operations at each of the Employer's 22 sites are similar⁸; only a few unnamed locations do not have servicing contractors who perform repairs on site. The Employer's USPS operation is governed by the Service Contract Act which defines minimum standards for wages and benefits for hourly personnel working at the sites who are in the petitioned-for unit.

The Employer's contract with the USPS commenced on March 1, 2005. The five year contract consists of the first two years followed by three one-year renewable options. The Employer has a full complement of approximately 225 employees, including managers and supervisors, working on the USPS account. Of this total, 15 work out of the New York headquarters office, 35 work in various administrative locations throughout the country, and the remaining 175 work on site at the 22 operation sites located in 20 states, including 3 to 9 QC Is and QC IIs. The record indicates that the various operation sites are approximately 500 to 600 miles apart from each other. The petitioned-for unit is located in Trenton, Michigan.

Management Hierarchy

The Employer's director of operations is Kenneth Nevor, who is one of four directors who reports to the Employer's president. Nevor has an office in New York and is responsible for all of the Employer's operations, including the USPS support operation, for the United States, Europe, and China. Quality Assurance Manager (QAM) Danny Simpson reports to Nevor. Simpson, who works out of Cincinnati, Ohio, is one of four QAM's company-wide. Simpson is the only QAM assigned to the USPS account and is responsible for providing input and updates on the status of all 22 sites to corporate headquarters, handles transfers for the Quality Process Auditor (QPA), handles disputes between employees, the service contractor and/or USPS, depending on the severity of the dispute, and communicates with the QPAs on a daily basis regarding their operations. Reporting to QAM Simpson is Mark Baldwin, the assistant quality assurance manager (AQAM). Baldwin's role is not clear from the record but it appears that he assists Simpson from his office in Chicago, Illinois.

There are a total of 35 QPAs assigned to the USPS account. Each site has one or two QPAs who report to Simpson and/or Baldwin. Two are assigned to the Trenton operation, John Dobbs on the day shift and Gary Trent on the second

⁸Approximately 99% of the work is the same at all facilities.

shift. The QPAs are the Employer's on-site supervisors and control the daily work functions associated with each operation, including but not limited to handling personnel issues between employees of the servicing contractor⁹ and the Employer, assigning employee work duties and locations at the site, handling work scheduling and redistribution, purchasing supplies, handling equipment that must be condemned, issuing employee discipline, tracking employee attendance and training employees.¹⁰

A total of seven employees work at the Trenton operation. In addition to Dobbs and Trent, there are five quality clerks, one Quality Clerk II (QC II) and four Quality Clerk Is (QC I). The quality clerks report directly to the QPAs and are the only classifications in the petitioned-for unit.

Centralized Labor Relations

The Employer is bound by the Service Contract Act which establishes minimum wage and benefit rates for all QC I and QC II¹¹ employees at its 22 sites. The Employer can increase wage rates if it desires based upon locality conditions in order to ensure continuity in operations or arguably to recruit and/or retain employees. The final authority for pay and wage determinations rests with corporate headquarters, although QPAs can recommend a higher wage.¹² The Service Contract Act also establishes minimum thresholds for benefits such as health and welfare, vacations, and holidays. Holiday schedules vary slightly between the facilities based upon location, some locations receiving 10 paid days, others 11 paid days. Workers' compensation insurance plans are purchased from the same provider. There are separate policy numbers for the states of Ohio, New York, and Washington. The remaining sites share a common policy number. The Employer also provides additional benefits for all employees at each of the 22 USPS sites, including a 401(k) plan, short and long term disability plans, and a life insurance program.

QPAs hire QC Is and IIs at the operations level with all hires subject to headquarters approval. QPAs inform the QAM of the need for candidates and the QAM forwards the request to corporate headquarters. Corporate maintains a database of qualified candidates and also uses internet search engine Monster.com to locate qualified candidates. The corporate office screens the candidates prior to referring them to the QPA for an on-site interview. The screening process

⁹Resources Consultants Inc., (RCI) is the servicing contractor for the Trenton operation.

¹⁰The parties stipulated that the QPAs are statutory supervisors and I so find. There is ample record evidence indicating that QPAs direct and assign work, authorize overtime, and adjust grievances.

¹¹QC I and II employees' minimum pay scale was adopted from the Service Contract Act classifications of General Clerk I and II. Those hourly rates of pay are \$9.99 and \$11.11, respectively. ¹²All of the Trenton QC Is (Ms. Champany, James Bowden, Ms. Nadwie, and Mr. Spaulding) and the QC II (Joseph Nadwie) started above minimum scale at \$10.50 and \$18.09 per hour, respectively.

includes a review of their work history, background, and a drug test. If the candidate passes the screening process, he/she has an on-site interview with the QPA that can be scheduled by headquarters or the QPA. QPAs conduct the interview and use a comprehensive checklist provided by headquarters to determine if the employee is technically qualified for the QC position. As of the date of the hearing, all QPA recommendations, 19 recommendations to hire and 2 not to hire, were approved by corporate headquarters.¹³ At the request of the USPS, the Employer retained all of the predecessor employer's employees at the Trenton facility when the Employer took over operations on March 1, 2005.

The Employer has standardized policies and administrative processes regarding vacation and holiday schedules, attendance, tardiness, leave, and workplace injury reporting procedures that were disseminated to all 22 operations sites from its headquarters at the time it assumed operations on March 1, 2005. Standardized timesheets for QPA, QC I and QC II job classifications, requests for vacation, and warning forms are utilized at all 22 locations. The Employer also published frequently asked questions bulletins to its operations sites to address employee concerns during the transition period from the predecessor employer. Headquarters also maintains employee personnel files including workers' compensation and unemployment records.

QC I, QC II and QPA work hours are monitored locally through the USPS computer system and manually on Employer timesheets. Each employee has a logon id and password which allows them access to the USPS computer system on the floor work area for logging their time. QPAs, who are required to fill out their own time sheet, approve the timesheets of QC I and II employees. The original time sheets are forwarded to headquarters and copies are kept on site. The QPA on site is responsible for monitoring all timesheets and hours worked including regular, vacation, and sick hours. Payroll is processed at headquarters on a biweekly basis and all 22 sites have the same payroll system and pay day. Paychecks are distributed by QPAs on site or by direct deposit to employee accounts. Direct deposit is available to employees at all 22 sites. Vacation requests are processed locally at each operation site by the QPA. The QPA approves the request locally and forwards it to payroll for processing. Overtime is also authorized, approved, and assigned locally by site QPAs.

The Employer's headquarters office decides whether employees will be disciplined at each site. Site QPAs forward their written recommendations for discipline to the QAM who in turn forwards it to corporate. If discipline is authorized, the QAM will direct the QPA to administer the discipline. QC I and II employees are encouraged to raise any complaints or concerns they may have with

¹³ The operating locations that the 19 employees were hired at are not specified in the record.

their site QPAs.¹⁴ If the employee is dissatisfied with the answer he/she receives, or does not feel the concern can be addressed locally, he/she is instructed to contact the QAM. There is no record evidence indicating whether any Trenton operation employee was disciplined, or has used this complaint procedure.

The opportunity for promotions and advancement is the same at each site. Local QPAs make recommendations for promotions to headquarters and headquarters generally approves the QPA recommendation. No QC I or II employee has ever been promoted to a QPA. The only promotion available for clerks is from QC I to QC II. There is no record evidence indicating that any Trenton employee was promoted.

The Employer does not own any of the facilities in which it works; it operates out of the servicing contractor's facility. Nevor testified that he has only been to two facilities, Seattle and Memphis, but generally the facilities are 100,000 to 125,000 square feet, with 3 to 9 QC I and QC II employees, and a number of bays to which containers are delivered. Generally, the Employer's employees are allowed to use the servicing contractor's break rooms and cafeteria at these sites. Trenton employees share a common parking area and lunchroom with other employees at the facility.

Employee Interchange

QC I and QC II employees, at all sites, have no transfer, seniority or bumping rights, and no employee at any of the 22 sites has ever been laid off. QC I and II employees never speak with, deal with, or work with QC I and QC II employees at other locations. As Nevor testified, the "sites are too spread out" to transfer employees, the sites being approximately 500 to 600 miles apart.

QAM Simpson may transfer QPAs as needed between sites to cover for absences and vacations, or fill in himself. This is normally done on a temporary, short term basis to address operational needs. No QPA at the Trenton site has ever transferred. Nevor testified that he did not have personal knowledge of QAM Simpson visiting the Trenton site but believed he did so within the last couple of months. He believed Simpson went to the facility a couple of times, once as directed by the USPS and one other time.¹⁵

¹⁴ At the Trenton site, QPA Dobbs forwarded an e-mail to QC II Joseph Nadwie, from QAM Simpson, instructing Nadwie to voice his concerns or complaints regarding the Trenton operation to Dobbs at the local level.

¹⁵ A Trenton QC I clerk testified that he has never spoken to QAM Simpson, AQAM Baldwin, or any headquarters personnel.

The Employer recently started conducting technical meetings at its headquarters inviting seven QPAs and one QAM in for training on general guidelines, supervisory techniques, and computer systems.¹⁶ All site QPAs also have weekly conference calls with the USPS, but no QC I or II employees participate in these calls. Nevor started calling site locations on a weekly basis commencing July 2005, but has never been to the Trenton site, and would go to Trenton only if instructed by the USPS.

Employee Duties

The Statement of Work (SOW) governs the duties of the employees working at all 22 sites and is the “bible” with respect to job descriptions, qualifications, and instructions to perform work.¹⁷ On-site QPAs are required to follow the SOW and they cannot deviate from it. QPAs are responsible for training all QC I and QC II employees at each facility.

The SOW classifies QC I employees into two job categories, palletized product and initial container inspection. The pallet function consists of identifying the different types of containers, confirming the height, weight, and count of each pallet, updating the computer system,¹⁸ and labeling the pallet. Initial container inspection clerks assess each container to determine whether the container requires repair by the on-site contractor or is serviceable and can be shipped. The clerk is responsible for correctly labeling the pallet with a barcode for its destination and updating the computer system on the status of the container. If the container requires repair the clerk is also responsible for generating the correct documentation and forwarding same to the servicing contractor for container repair.

QC II employees do final inspections on containers and verify that all repairs are completed by the servicing contractor in accordance with USPS standards. Should a container be classified as condemned, the QC II ensures that USPS condemnation criteria are met. The QC II is further responsible for updating the computer system.

¹⁶ The record is not clear whether QC I and IIs were in attendance at this meeting, but it appears that the meeting was tailored to supervisory issues.

¹⁷ The SOW is part of the service contract between the Employer and the USPS, Attachment 1 to Amendment 9.

¹⁸ Employees have access to centrally located computers at the Trenton facility which allows them to log on and perform their work functions. Employees at Trenton also log on to a USPS computer system to track time. One of the programs on this system allows the employees to track container history by location number, identifying each location the container has visited.

Generally, employees work a 40 hour week. Starting times vary at each site, between 5:30 a.m. to 6:30 a.m.¹⁹ and are determined by the servicing contractor. All employees have the same break and lunch schedules and wear similar work clothes. QC I and QC II classifications require a high school diploma.

QC II Duties and the Trenton Operation

Despite some conflicting and inconsistent testimony, a careful review of the record establishes that, generally, QC II employees cannot resolve employee disputes; cannot discipline or evaluate employees; have no effect on QC I employee wages or promotions; cannot approve time cards; have never held meetings in the absence of QPAs; cannot conduct audits of work; give guidance to QC Is with respect to their job duties, however, QPAs conduct the training; are not designated as "supervisors" on the payroll, whereas QPAs are.²⁰ QC IIs can recommend employees for hire but the recommendation has to be reviewed; QC IIs can assign work whether they are filling in for the QPA or not; QC IIs have to perform their normal work duties when they act as a QPA; QC IIs cannot fill in for QPAs for an indefinite period of time; QC IIs do not communicate on a daily basis with the QAM, QPAs do, and if a QC II was filling in for a QPA he could communicate with a QAM if necessary; QC IIs cannot authorize vacation or sick time off.

The disparity between QPAs, the stipulated supervisors on site, and the QC IIs is glaring. The Employer is bound by the Service Contract Act in structuring its compensation package for QC IIs, but not for the QPAs. QC IIs do not have their own office at each site or corporate credit cards in their names which are used to make purchases for supplies, or file expense reports for reimbursement of expenditures, whereas QPAs do. QC I and II employees receive overtime pay, while QPAs receive compensatory time off in lieu of overtime pay. The Employer requires only a high school diploma for its QC I and II positions, while requiring four years experience in quality operations for a QPA, and, although a degree is not necessary, one in the sciences or mathematics is preferred.

In regard to the Trenton operation, Nevor testified that he had analyzed the time cards of the Trenton employees and noted that there was a period of 19 hours in which Joseph Nadwie, the only QC II employee at the Trenton operation, had

¹⁹ The start times apparently reflect the day shift operation. No start times are in the record with respect to any second shift operation. The Trenton site is a two-shift operation. The Employer's hours run concurrently with the site contractor's hours.

²⁰ When asked by the hearing officer if QC IIs can exercise independent judgment, Nevor testified that that was the QPA's responsibility.

worked on site without a QPA present.²¹ However, Nevor had no personal knowledge of whether Nadwie performed any of the aforementioned supervisory duties of the QPA during those 19 hours.

Nadwie works on the first shift as a QC II and his supervisor is QPA Dobbs. Nadwie testified that he believed that the 19 hours he allegedly worked without a QPA on site were weekend overtime hours. Nadwie testified that he has always worked with Dobbs during the week and believes the only time he worked without Dobbs was during weekend overtime when Dobbs was not on site.²² Nadwie testified he was never informed that he was a supervisor and has never handed out payroll checks, that he does not evaluate or discipline employees, never made a recommendation for an employee pay raise, was never involved in another employee's job interview, never assigned work to another employee, and never laid off any employee. If he needs supplies he posts a request on a bulletin board in Dobbs' office. Nadwie does not have a key to the QPA office and has not worked in that office. Nadwie does not have any employees who report to him, or turn their time sheets in to him, and he never hired anyone. Nadwie has never been to another Employer operation nor has he seen other employees from other operations at the Trenton site. Nadwie was never asked by any employees at the Trenton operation to prioritize their work and he has not received a bonus or an evaluation from the Employer, unlike supervisors Dobbs and Trent. He has helped other employees pull containers when they are backed up,²³ but has never trained a QC I, never showed a QC I how to use a computer or do an audit, never told an employee where to work, and has never reassigned an employee. Nadwie's knowledge of the Employer's work environment is limited to his experience at the Trenton site.

Analysis

The Appropriate Unit

It is well settled that in reviewing a bargaining unit the Board does not require "the most appropriate unit," but only that the unit be appropriate to insure to employees "the fullest freedom in exercising the rights guaranteed by this Act." *Overnight Transportation Co.*, 322 NLRB 723 (1996); *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), enfd. 190 F.2d 576 (7th Cir. 1951). The unit being petitioned for is a relevant consideration, but it is not dispositive. *Overnight*

²¹ The time cards were not produced as an exhibit, and the record is silent with regard to what time period these time cards represented.

²² Nadwie testified that he was not certain what hours QPA Dobbs works, so he could not be certain if there were other times in which he has worked during the week without Dobbs present. ²³ The extent of this help was to pull a container to a QC I and then return it to its prior location after the QC I was finished.

Transportation, supra. *Airco, Inc.*, 273 NLRB 348 (1984). Here, the Petitioner seeks a unit of clerks at a single site, instead of a much broader unit including all 22 sites within an expanded geographic location, as proposed by the Employer.

A single plant or store unit is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity. *J&L Plate, Inc.*, 310 NLRB 429 (1993). To determine whether the presumption has been rebutted, the Board considers such factors as centralized control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; geographic proximity; and bargaining history, if any. *New Britain Transportation*, 330 NLRB 397 (1999); *J&L Plate*, supra; *Bowie Hall Trucking*, 290 NLRB 41 (1988); *D&L Transportation, Inc.*, 324 NLRB 160 (1997); *Esco Corp.*, 298 NLRB 837, 839 (1990), and cases cited therein.

While it is true that the Employer has centralized control over personnel and labor relations policies, including payroll, and wages and benefits, centralized control of corporate operations does not necessarily render a single-facility unit inappropriate. *The Concrete Company*, 336 NLRB 1311, 1315 (2001); citing *Bowie Hall Trucking*, supra; *Cargill, Inc.*, 336 NLRB 1114 (2001). Indeed, where the evidence demonstrates significant local autonomy over labor relations, central control is not enough to rebut the single-location presumption. *New Britain Transportation Co.*, supra; *Carter Hawley Hale Stores*, 273 NLRB 621 (1984).

It is clear from the record that the QPAs at the Trenton operation, as well as other QPAs at other operations, retain a degree of autonomy in performing labor relations functions as well as monitoring the daily operations at their respective sites. QPAs authorize and approve overtime, approve requests for time off, such as vacation requests, and are responsible for monitoring, collecting, and approving payroll timesheets. QPA recommendations to hire are always followed and, most significantly, QAM Simpson encourages his employees to address their complaints and concerns locally with their QPAs in lieu of directly contacting personnel at corporate headquarters. This, together with the fact that visits by management personnel to the operating sites are infrequent and occur only to fill in for supervisory personnel who are absent, or in unique situations in which the USPS requires it, or when an employee dispute is escalated necessitating upper management intervention, indicates a substantial degree of autonomy in labor relations matters with the local QPAs.

Though the duties of the QC I and QC II clerks throughout the 22 sites are essentially the same as dictated by the SOW, there is no evidence of interchange between the clerks. The clerks at the Trenton site never communicate with clerks

at other sites, and transfers are not feasible because of the distance between sites. The only record evidence of interchange involves temporary transfers of supervisory personnel (QAM and/or QPA) to fill operational needs. As such, it cannot be said that significant employee interchange occurs between the sites. See *Cargill*, supra. and *Courier Dispatch Group, Inc.*, 311 NLRB 728 (1993). Finally, the QC I and QC II clerks at the Trenton site receive a different pay rate than QC I and QC II clerks at other locations. The Employer increased the starting wages for clerks at the Trenton site, and other unnamed sites, to retain employees and ensure no disruption in work flow.²⁴

Accordingly, I find that the presumption of the appropriateness of a single-facility unit at the Trenton operation has not been rebutted. The QPAs at the Trenton site retain a significant degree of autonomy, there is significant geographic separation between the Trenton facility and the Employer's other 21 sites, there is no evidence of interchange of unit employees between the Trenton operation and other sites, and there is insufficient evidence of functional integration between the Employer's other 21 sites and its Trenton operation.²⁵

The QC II Classification as Supervisory

The primary supervisory indicia enumerated in Section 2(11) of the Act are read in the disjunctive, so that possession of any one of the 12 listed authorities can invest an individual with supervisory status. *Ohio Power Co. v. NLRB*, 176 F.2d 385 (6th Cir. 1949), cert. denied 338 U.S. 899 (1949); *Allen Service Co.*, 314 NLRB 1060, 1061 (1994). The burden of proof rests with the party seeking to exclude the individual as a supervisor, in this case the Employer. *NLRB v. Kentucky River Community Care*, 532 U.S. 706 (2001); *Benchmark Mechanical Contractors*, 327 NLRB 829 (1999). The Board is mindful not to deprive employees of their rights under Section 7 by interpreting the term supervisor too broadly. *Azus Ranch Market*, 321 NLRB 811, 812 (1996). To separate straw bosses from true supervisors, the Act prescribes that the exercise of supervisory indicia be in the interest of the employer and requires the use of independent judgment. This means that the discharge of Section 2(11) functions in a routine or clerical manner, or the use of independent judgment to solve problems unrelated to

²⁴ Nevor testified that there were slight deviations within the 22 sites and that a majority of sites were paid according to the Services Contract Act. He also testified that the rates at Trenton were increased upon the recommendation of a QPA at that facility.

²⁵ The instant matter is distinguishable from *United States Postal Service*, 200 NLRB 1143 (1972), where the Board found a single unit appropriate involving the Employer's area supply centers and mail bag depositories. Although there had been a history of single units, neither the joint petitioners nor the petitioner in the related consolidated case was seeking a single facility unit, but simply a multi-facility unit consisting of different combinations of sites. Additionally, in finding the multi-facility unit appropriate the Board looked to the actual function and control. Unlike the instant matter, in *USPS* there was no deviation from the centrally dictated wage structure and benefits, and labor relations for both the area supply centers and mail bag depositories was controlled by managers at the area supply centers.

Section 2(11) functions, does not qualify as supervisory. *Alois Box Co.*, 326 NLRB 1177 (1998).

The Employer argues that QC IIs act as supervisors in the absence of QPAs by giving work instructions and being responsible for the work, training, and concerns/problems of QC I employees. The Employer further asserts QC IIs track QC I employee work hours, order supplies, and act as the highest ranking employee on site in the absence of the QPA.

Assignment and direction of employees do not constitute supervisory authority when exercised in a routine manner or circumscribed by management directives or a collective bargaining agreement. *Chevron Shipping Co.*, 317 NLRB 379, 381 (1995); *Dynamic Science, Inc.*, 334 NLRB 391 (2001). If a QC II gives guidance or instruction to a lower ranking employee, it is more consistent with the QC IIs' generally greater experience and their standing at the top of the Employer's promotional hierarchy than it is evidence of supervisory authority. The fact that an individual gives minor orders during the course of a workday does not make him or her a supervisor. *Providence Hospital*, 320 NLRB 717, 725 (1996), citing *NLRB v. Security Guard Service*, 384 F.2d 143, 151 (5th Cir. 1967); *Byers Engineering*, 324 NLRB 740 (1997). Likewise, keeping operations "running smoothly" by physically moving containers back and forth does not equate with supervisory status. *Coors Distributing Co.*, 283 NLRB 328, 330 (1987). The fact that a QC II would be the highest-ranking worker on site in the absence of the QPA does not make him or her a supervisor. *Training School at Vineland*, 332 NLRB 1412 (2000). Furthermore, quality control work of inspecting and reporting the work of others does not confer supervisory status. *Brown & Root, Inc.*, 314 NLRB 19, 21 fn. 6 (1994).

Regarding the Employer's remaining arguments, a review Nevor's testimony as to the authority of the QC IIs in the absence of the QPA indicates that QC IIs cannot resolve employee problems; cannot discipline or evaluate employees; cannot approve time cards; cannot audit work; cannot conduct training; and cannot authorize vacation or sick time off, or hold employee meetings in the absence of QPAs. Furthermore, QC IIs have no effect on QC I employee wages or promotions, their recommendations to hire must be reviewed, and they cannot fill in for QPAs for an indefinite period of time. Nevor further testified that QC IIs give guidance to employees, whereas QPAs train the employees. QC IIs could order supplies, but should wait if they can for the QPA to return.

Furthermore, the SOW, which is the operations bible and cannot be deviated from, specifically defines the duties of the QC II without referencing any of the Section 2(11) enumerated supervisory indicia. Should QC IIs be found to be

supervisors, the Employer's current nationwide 1 to 4 supervisor to employee ratio would be 1 supervisor for every 1.6 employees, and leave its Denver operation with six supervisors and no employees.²⁶

In regard to the Trenton facility, there is no evidence that Nadwie ever performed the duties of QPA Dobbs, or understood in his absence that he was to assume Dobbs' duties. There is no record evidence that Nadwie possesses any of the primary indicia of supervisory status. Nadwie does not utilize independent judgement in the dispatch of his duties, does not evaluate or discipline employees, or effectively recommend same. No employee reports to him, nor does he assign work.

For the reasons set forth above, and based on the record as a whole, I find that the Employer has not sustained its burden of establishing that Joseph Nadwie is a supervisor as defined in the Act.

5. For the above reasons, the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

All full-time and regular part time Quality Clerk I and Quality Clerk II employees employed by the Employer to service the Employer's USPS account located in Trenton, Michigan; but excluding all other drivers, office clerical employees, professional employees, service and maintenance employees, and guards and supervisors as defined in the Act.

Dated at Detroit, Michigan, this 19th day of August 2005.

(SEAL) "/s/[Stephen M. Glasser]."
 /s/ Stephen M. Glasser

²⁶ Trenton currently has two supervisors; a third would render the ratio to 1 supervisor for every 1.3 employees.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction and supervision of this office among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Employees who are otherwise eligible but who are in the military service of the United States may vote if they appear in person at the polls. Ineligible to vote are 1) employees who quit or are discharged for cause after the designated payroll period for eligibility, 2) employees engaged in a strike, who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and 3) employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by:

DISTRICT LODGE 60, INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that **within 7 days** of the date of this Decision, **2** copies of an election eligibility list, containing the full names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. The list must be of sufficient clarity to be clearly legible. The list may be submitted by facsimile or E-mail transmission, in which case only one copy need be submitted. In order to be timely filed, such list must be received in the **DETROIT REGIONAL OFFICE** on or before **August 26, 2005**. No extension of time to file this list shall be granted except in extraordinary

circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court, 1099 14th Street N.W., Washington D.C. 20570**. This request must be received by the Board in Washington by **September 2, 2005**.

POSTING OF ELECTION NOTICES

a. Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Office in the mail. In all cases, the notices shall remain posted until the end of the election.

b. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays.

c. A party shall be stopped from objecting to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. */

d. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

*/ Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice.